



Sen. James F. Clayborne, Jr.

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1 AMENDMENT TO SENATE BILL 2939

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2939 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing  
5 Section 16-126.1 and by adding Section 16-126.2 as follows:

6 (220 ILCS 5/16-126.1)

7 Sec. 16-126.1. Regional transmission organization  
8 memberships. The State shall not directly or indirectly  
9 prohibit an electric utility that on December 31, 2005 provided  
10 electric service to at least 100,000 customers in Illinois from  
11 membership in a Federal Energy Regulatory Commission approved  
12 regional transmission organization of its choosing. Nothing in  
13 this Section limits any authority the Commission otherwise has  
14 to regulate that electric utility. This Section ceases to be  
15 effective on July 1, 2016 ~~2022~~ unless extended by the General  
16 Assembly by law.

1 (Source: P.A. 95-481, eff. 8-28-07.)

2 (220 ILCS 5/16-126.2 new)

3 Sec. 16-126.2. Regional transmission organization capacity  
4 markets.

5 (a) The General Assembly finds that the electric generation  
6 capacity market design of one or more regional transmission  
7 organizations of which Illinois electric utilities are members  
8 fails to adequately provide price signals that (i) incent the  
9 development and availability of electric generation capacity  
10 resources at times of high demand or unusual stress on the  
11 electric generation and transmission system, and thereby fail  
12 to promote the provision of adequate, reliable, and efficient  
13 electric service to the citizens and businesses of the State of  
14 Illinois, and (ii) provide adequate compensation to providers  
15 of electric generation capacity resources needed to maintain,  
16 at all times of the day, week, and year and under all  
17 conditions affecting the electric generation and transmission  
18 resources and system, adequate, reliable, and efficient  
19 electric service to the citizens and businesses of the State of  
20 Illinois.

21 One of the regional transmission organizations of which  
22 Illinois electric utilities are members has a membership that  
23 overwhelmingly consists of vertically integrated utilities  
24 that own generating facilities the costs of which are recovered  
25 through cost-of-service-based rates that are charged to

1 captive retail customers and that serve customers in states  
2 that, unlike Illinois, have elected not to enter into retail  
3 electric competition; and the other regional transmission  
4 organization has a membership that overwhelmingly consists of  
5 utilities that do not own the generation facilities but rather  
6 obtain their electric supply in competitive wholesale  
7 generation markets and that serve customers in states that,  
8 like Illinois, have adopted retail electric competition.

9 The State of Illinois has a direct interest and  
10 responsibility in ensuring that the citizens and businesses of  
11 the State of Illinois receive and obtain adequate, reliable,  
12 and efficient electric service at all hours of the day, week,  
13 and year and under all conditions affecting the electric  
14 generation and transmission resources and system serving the  
15 State of Illinois, and in thereby promoting the health,  
16 welfare, and safety of the citizens of this State.

17 It is in the public interest of the State of Illinois and  
18 its citizens for the State to ensure that electric utilities  
19 holding certificates of public convenience and necessity to  
20 provide service in this State and providing electric service to  
21 citizens and businesses in the State of Illinois participate in  
22 regional transmission organizations with wholesale electricity  
23 market structures and processes that provide price signals that  
24 (i) incent the development and availability of electric  
25 generation capacity resources at times of high demand or  
26 unusual stress on the electric generation and transmission

1 system, and thereby promote the provision of adequate,  
2 reliable, and efficient electric service to the citizens and  
3 businesses of the State of Illinois, and (ii) provide adequate  
4 compensation to providers of electric generation capacity  
5 resources needed to maintain, at all times of the day, week,  
6 and year and under all conditions affecting the electric  
7 generation and transmission resources and system, adequate,  
8 reliable, and efficient electric service to the citizens and  
9 businesses of the State of Illinois, while (iii) maintaining  
10 appropriate mechanisms to measure and protect against the  
11 exercise of undue market power by both suppliers and buyers of  
12 electric generation capacity resources.

13 The General Assembly has heretofore allowed electric  
14 utilities serving customers in Illinois to exercise choice in  
15 determining which regional transmission organization to join,  
16 in the interests of experimentation during the formative years  
17 of regional transmission organizations and electric industry  
18 restructuring, the General Assembly now finds, based on the  
19 review of experience in Illinois, that having portions of the  
20 State of Illinois located within different regional  
21 transmission organizations is undesirable for numerous  
22 reasons, including those stated in the other findings in this  
23 subsection (a), and that it results in electric generating  
24 capacity located within the different regional transmission  
25 organizations receiving different compensation for providing  
26 the same electric capacity, energy, and reliability services

1 and that absent overwhelming justification to the contrary, it  
2 is in the public interest of the State of Illinois and its  
3 citizens and businesses that all electric utilities in this  
4 State serving more than 100,000 retail electric customers  
5 should be members of the same regional transmission  
6 organization.

7 (b) On or before September 1, 2016, the Illinois Commerce  
8 Commission shall initiate a proceeding to evaluate the existing  
9 regional transmission organization of which each electric  
10 utility that on December 31, 2015 provided delivery services to  
11 at least 100,000 retail electric customers in Illinois is a  
12 member. No later than February 28, 2017, the Commission shall  
13 make a determination as to whether each such regional  
14 transmission organization met each of the following criteria as  
15 of September 1, 2016:

16 (1) The regional transmission organization maintains a  
17 market for the provision and acquisition of electric  
18 generation capacity resources including an electric  
19 generation capacity auction process that has the following  
20 characteristics:

21 (A) a downward-sloping demand curve for electric  
22 generation capacity resources;

23 (B) buyer-side and supplier-side market power  
24 mitigation mechanisms sufficient to prevent  
25 manipulation of the electric capacity market by both  
26 buyers and sellers of electric generation capacity,

1           such as must-offer requirements for electric  
2           generation capacity resources, mandatory participation  
3           by load-serving entities for all load, structural  
4           market power tests based on numbers of suppliers, and  
5           minimum and maximum offer price requirements with  
6           energy and ancillary services revenue offsets;

7           (C) a forward term for the base electric generation  
8           capacity auction of at least 3 years from the date of  
9           each base electric generation capacity auction to the  
10          date when the electric generation capacity acquired in  
11          the auction is to be provided by the supplier; and

12          (D) an explicit capacity performance product  
13          component designed to drive improved generator  
14          reliability (i) that incents generators to make  
15          investments that help ensure that they perform  
16          reliably during extreme weather events and (ii) that  
17          places value upon dependable fuel supplies.

18          (2) At least 50% of the electric utilities that are  
19          members of the regional transmission organization  
20          primarily serve retail electricity customers located in  
21          states offering retail electricity competition, or the  
22          option to choose the customer's electricity supplier, to a  
23          majority of the retail customers in the state.

24          (c) If the Commission determines in the proceeding  
25          described in subsection (b) that an electric utility that on  
26          December 31, 2015 provided delivery services to at least

1 100,000 retail electricity customers in Illinois is not a  
2 member of a regional transmission organization meeting all of  
3 the criteria specified in subsection (b) as of September 1,  
4 2016, then the Commission shall issue an order in the  
5 proceeding described in subsection (b) directing the electric  
6 utility to initiate all actions necessary to become a member of  
7 a regional transmission organization that the Commission has  
8 found meets the criteria specified in subsection (b). The  
9 actions that the Commission shall require of the electric  
10 utility shall include initiating all actions necessary to  
11 withdraw from membership in the regional transmission  
12 organization of which the electric utility is a member and  
13 applying for membership in a regional transmission  
14 organization that the Commission has found meets the criteria  
15 specified in subsection (b). For purposes of this subsection  
16 (c), "initiating all actions" shall include, without  
17 limitation: (1) submitting any required notice of withdrawal of  
18 membership to the regional transmission organization of which  
19 the electric utility is a member, (2) submitting any required  
20 application for membership to a regional transmission  
21 organization that the Commission has found meets the criteria  
22 specified in subsection (b), and (3) making any necessary  
23 filings with the Federal Energy Regulatory Commission for  
24 approval to withdraw from membership in one regional  
25 transmission organization and to become a member of a regional  
26 transmission organization meeting the criteria specified in

1 subsection (b).

2 (d) If an electric utility that is directed by the  
3 Commission pursuant to subsection (c) to become a member of a  
4 different regional transmission organization owns electric  
5 transmission facilities in another state in addition to  
6 Illinois, the electric utility is required to comply with the  
7 Commission's order issued pursuant to subsection (c) only with  
8 respect to its transmission facilities located within the State  
9 of Illinois. Nothing in this subsection (d) shall preclude the  
10 electric utility from transferring all of its electric  
11 transmission facilities to a regional transmission  
12 organization that meets the criteria specified in subsection  
13 (b).

14 (e) If an electric utility that is required to withdraw  
15 from membership in a regional transmission organization  
16 pursuant to subsection (c) is assessed exit fees or similar  
17 charges, hereinafter referred to as "exit fees", by the  
18 regional transmission organization, and the assessment and  
19 amount of the exit fees is agreed to by the electric utility or  
20 confirmed or approved by the Federal Energy Regulatory  
21 Commission, the electric utility may file an application with  
22 the Commission for authority to recover the amount of the exit  
23 fees allocable to the electric utility's transmission  
24 facilities or operations in the State of Illinois through  
25 charges to the electric utility's delivery services customers  
26 in Illinois. The Commission shall authorize the electric

1 utility to recover the amount of exit fees assessed by the  
2 regional transmission organization and agreed to by the  
3 electric utility or approved by the Federal Energy Regulatory  
4 Commission that are allocable to Illinois, less any amount of  
5 the exit fees that the electric utility is authorized to  
6 recover or be reimbursed for through other means, as a cost of  
7 service through the electric utility's delivery services  
8 tariffs. The exit fees shall be recovered through a charge per  
9 kilowatt-hour included in the electric utility's delivery  
10 services tariff. The charge per kilowatt-hour shall be uniform  
11 for all customer classes. The electric utility's tariff shall  
12 provide for annual reconciliation filings with the Commission  
13 to reconcile the amount collected with the amount authorized to  
14 be collected and to provide for surcharges or refunds to  
15 address any under-collections or over-collections. The  
16 Commission may direct that the amount of exit fees shall be  
17 recovered through charges in the electric utility's delivery  
18 services tariffs over a period longer than one year; provided,  
19 that in such event, the Commission shall authorize the electric  
20 utility to record carrying charges, at the rate of return  
21 authorized in setting the electric utility's delivery services  
22 rates, on the unrecovered balance of exit fees, and to include  
23 the carrying charges in the amount of exit fees to be  
24 recovered. The Commission shall issue its order granting the  
25 electric utility authority to recover exit fees and approving a  
26 tariff for this purpose, in accordance with this subsection

1 (e), within 120 days following the filing of the electric  
2 utility's application.

3 (f) Nothing in this Section shall be construed as imposing  
4 any requirements or obligations that are in conflict with  
5 federal law.

6 (g) The Commission shall have authority, on its own motion  
7 or on complaint, to investigate and determine an electric  
8 utility's compliance with this Section, including, without  
9 limiting the scope of the Commission's authority, to determine  
10 the electric utility's compliance with this Section. Any  
11 investigation or complaint proceeding before the Commission  
12 shall be completed by the issuance of a final order within 6  
13 months following the date that the Commission issued its order  
14 initiating the investigation or that the complaint was filed.

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.".